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8 September 1981

Worldwide Report

LAW OF THE SEA

(FOUO 3/81)

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USSR

PROBLEMS EXPECTED OVER U.S. STAND ON SEA TREATY

PM101424 London THE GUARDIAN in English 8 Aug 81 p 4

[Ian Guest dispatch: "U.S. May Rock the Sea Treaty Boat for Britain"]

[Text] Geneva--Developing countries are preparing to confront the Reagan administration about its plans for a sweeping review of the Law of the Sea treaty, which has been laboriously negotiated for the past eight years.

Delegates at the Law of the Sea conference, which resumed here this week, say the Americans will be told on Monday that their objections to the treaty--particularly its provisions on deep sea mining--are too extensive to be even negotiable.

This raises the possibility of an American walkout from the conference. This could cause problems for U.S. allies, like Britain, which is satisfied with the present treaty.

The dispute represents an abrupt change from the mood at the beginning of the conference last week. President Reagan announced in March that the treaty would be reviewed by his administration, but most delegations were prepared to allow the Americans time to voice their concerns. As one delegate here said: "Any treaty boycotted by the Americans doesn't stand much chance of success." In addition, delegations concede that the treaty stands little chance of ratification by the conservative U.S. Congress.

But the mood changed after Thursday, when Mr James Malone, the newly-appointed head of the U.S. delegation, detailed the U.S. objections. He effectively repudiated the treaty's deep sea mining regime, which establishes an international "authority" to regulate the exploitation of deep sea mineral nodules and in the view of the Americans hinders free access to deep sea minerals. Another American complaint is that production from the seabed would be limited, in deference to Canada, Zambia, Zimbabwe, and Zaire, which fear their land-base mineral industries would be swamped if deep sea mining moved into full swing.

The Americans are also worried that the 36-member council, which would decide mining policy, could fall prey to an alliance of the Eastern bloc and Third World, and angry that the U.S. has not been guaranteed a seat on the council.

This position has been denounced as a complete "sell-out" to the U.S. mining lobby. Within the Third World's Group of 77, only Chile, Indonesia, and Colombia are said to be sympathetic to the American line.

The clash may cause problems for Britain, which has gained a good deal from the last few years of bargaining. Countries like Britain, which have wide continental shelves extending beyond the 200-mile exclusive economic zone, will be allowed to exploit them (in return for royalties), and Britain's claim to North Sea oil is strengthened by the treaty's confirmation of the 200-mile zones.

The treaty poses another British worry--the growing tendency of Third World coastal countries to impede freedom of navigation. Under the treaty, even warships will be allowed free passage through territorial seas, straits, and archipelagos. U.S. allies like Britain are worried that if the treaty unravels a free-for-all will result--and that one of the first casualties could be NATO's hopes of free-ranging fleets to counter the Russian navy.

CSO: 5200/2112

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USSR, JAPAN SEAWEED HARVEST CONTROVERSY

OW081029 Tokyo ASAHI EVENING NEWS in English 7 Jul 81 p 5

[ASAHI SHIMBUN 6 July editorial: "Seaweed Agreement"]

[Text] The waters around Kaigara Island, which is one of the Habomai Islands, are a treasure house of tangle, but Japanese fishermen cannot gather it because there is no agreement between Japan and the Soviet Union.

The Hokkaido Fisheries Association has now prepared the draft of an agreement through independent negotiations with the Soviet Government, but the draft contains an article which seems to recognize Soviet sovereignty over the island and the adjacent waters.

The two controversial points are that Japanese tangle gatherers are to carry permits issued by the Soviet Government and submit to Soviet jurisdiction in Kaigara waters. Even though it is a non-governmental agreement, the Japanese Government, which claims jurisdiction over the four northern islands, cannot possibly approve of the agreement as it is.

In the drafting of the temporary fishery agreement attendant on the establishment of 200-mile fishing zones by Japan and the Soviet Union, "territory" always threw a heavy shadow over "fish." This time it is not a fishing area that is at stake, but the problem of territorial waters itself is involved. It is to be hoped that the Soviet Union will reconsider so that the Hokkaido fishermen will not be caught in the crossfire in the territorial dispute.

Small fishermen very much want to gather tangle around Kaigara Island. On the basis of the agreement signed in June 1963 between the Dainippon Fisheries Association and the National Fisheries Committee attached to the Soviet National Economic Council, tangle gathering continued until 1976. This agreement said nothing about jurisdiction, and fishermen had only to carry certificates issued by the Dainippon Fisheries Association. In 1976, 330 fishing boats from the three fishery cooperatives in Nemuro City gathered 960 tons of tangle worth 750 million yen, which was a great help to the fishermen, who were suffering from the recession in the fishing industry.

Tangle gathering around Kaigara Island, together with permission to visit graves on the northern islands, played a very important role in advancing friendship between Japan and the Soviet Union. After 1977, however, because of the problems connected with the 200-mile fishing zones and the 120 mile territorial waters, the Soviet Union decided against the extension of the agreement and submitted new conditions. This was most regrettable.

It is true that diplomatic relations between our two nations have been very cool since the Soviet advance into Afghanistan. It is precisely because of this situation that we should like to say the following to the Soviet Union: Even if Japanese fishermen agreed to recognize permits and Soviet jurisdiction, the voices calling for the return of the northern islands will not disappear. The Japanese people will take it as a maneuver to split public opinion in Japan, and their anti-Soviet feelings will become stronger.

The late Tatsunosuke Takasaki, the chairman of the Dainippon Fisheries Association who drafted the first non-governmental agreement between Japan and the Soviet Union, remarked about these problems: "Fundamentally, these problems are humanitarian, before they are political or economic."

Cannot the problems of tangle gathering and visits to graves be handled as humanitarian problems transcending politics? Does the Soviet Union believe that its security will be threatened if the new agreement does not contain a reference to jurisdiction, which is connected with the territorial question, and if Japanese permits are used?

The return of the northern islands is the desire of the Japanese people as a whole, not just the fishermen concerned. The Soviet Union may be able to force its agreements on the fishermen, who are in a weak position. But, if it does so, it will make the antipathy of the Japanese people even stronger, and it stands to lose much more.

We had thought that the Soviet Union would try to find a way of improving Japan-Soviet relations by making some concessions over the tangle-gathering and graves-visit problems. The Soviet Union would lose nothing, and it would be the best possible way of making relations more friendly. The draft of the agreement was, in consequence, very disappointing. This will only make stronger the impression that Soviet foreign policy is unyielding and depends only on force. If the Soviet Union is really interested in humanitarianism and really wants to ease tension, it should agree to the renegotiation of the draft of the agreement.

CSO: 5200/2100

BRIEFS

VENEZUELANS ATTACK TRINIDAD BOATS--Kingston, 1 May (PL)--The Venezuelan Government has admitted that its troops opened fire on 11 fishing boats from Trinidad-Tobago during a recent incident in the Gulf of Paria, which separates the two countries. Ignacio Silva Sucre, Venezuelan ambassador in this capital, made the admission yesterday in Port-of-Spain, saying that the fishing boats were in Venezuelan waters. The diplomat's statements came amidst charges by Trinidadian fishermen that they were attacked by gunfire by the Venezuelan National Guard while operating in the Gulf of Paria with the proper permits. The crews of the 11 boats were taken to the town of Pedernales after being notified that they would have to pay $720 each to recover their fishing equipment and boats that had been confiscated. In the past few weeks, Venezuela has increased actions against fishing boats from Trinidad-Tobago despite an existing bilateral agreement on the subject. Over 30 Trinidadian boats have been detained in the month of April while fishing in Venezuelan waters with official authorization. [Excerpt] [PA020130 Havana PRELA in Spanish 1600 GMT 1 May 81]

CSO: 3010/1308

DAILY VIEWS TERRITORIAL WATERS QUESTION

PY252349 Rio de Janeiro LATIN AMERICA DAILY POST in English 25 Aug 81 p 4

[Editorial: "200 Mile Limit"]

[Text] Last week's incident when the U.S. shot down Libyan planes over the ocean points out the danger that exaggerated claims about territorial limits on the sea can cause. A number of countries around the world in recent years--Brazil included--have decreed a 200-mile limit on icean rights and this position has caused constant attrition between neighbors and fishing fleets. Libya's 60 mile claim in the Gulf of Sidra was the direct cause of the U.S. naval maneuvers that led to the downing of their aircraft in a dogfight.

Latin American nations such as Peru and Ecuador have seized fishing vessels of many nations for violating the claimed 200 mile territorial limit. Needless energies and economic resources have been spent in trying to patrol the very large ocean expanses created by governments who have decreed rights over these waters.

The government of Brazil, it was revealed over the weekend, is planning to change its position on the 200 mile limit decreed during the Medici administration. Itamaraty, the Foreign Ministry, is to issue a set of guidelines that would give Brazil national sovereignty over a more manageable and internationally recognized 12 mile sea limit. At the same time, Brasilia would claim "economic rights" for the remaining 188 miles.

This is a wise position. The Brazilian Navy cannot patrol Brazil's 200 mile limit effectively along its entire 4,500-mile-long coastline. The 200 mile decree always was mostly an empty gesture which could not be backed up by military resources. By recognizing reality and keeping in step with the majority of the world's maritime nations regarding a coastal limit, Brazil is showing mature judgment. Outside the 12 mile limit free navigation to all ships is to be permitted.

Meanwhile, the idea of reserving the 200 mile area for "economic purposes" is correct, meaning Brazil's petroleum drilling program is not a risk. There are fishing rights and even mineral prospection possibilities that also are at stake. Brazil's justifiable concern with the utilization of deep sea resources within its basic sphere of geographic influences is thereby acknowledged and reaffirmed.

CSO: 5200/2113

CUBA

CONTAMINATION OF SEA DISCUSSED AT HAVANA CONFERENCE

Havana BOHEMIA in Spanish 3 Jul 81 p 55

[Article by Gregorio Hernandez]

[Text] The Solidarity Room of the Habana Libre Hotel was the scene of the very important Symposium on the Treatment of Contamination of the Sea, an event sponsored by the Transport Research Institute of the Ministry of Transportation, together with specialized UN agencies.

The Institute had been assigned responsibility for practical handling of the main government problem entitled "Research Into Contamination of Havana Bay," a part of which is the Project Cuba 80/001, sponsored by the United Nations Development Program (UNDP), the United Nations Program for Environmental Protection and the United Nations Educational, Scientific and Cultural Organization (UNESCO), which are being carried out by 14 institutions belonging to the central administration of the Cuban Government.

This Havana Bay Project is a pilot project within the framework of the general project on the Greater Caribbean, sponsored by the United Nations.

The basic topics taken up included questions having to do with principles for the identification and characterization of sources of ocean pollution; standards for the selection of treatment and the environmental impact of pollutants on marine ecosystems; monitoring of the environmental impact of pollution of Havana Bay; and a report on the surveying and quantification of pollutants in the bay.

Scientists also analyzed results obtained to date in polluting plants and the monitoring of Havana Bay and the coastal zone, which made it possible to select and adapt research strategies that should be taken up in this second phase of research into the problem.

In addition, Cuban specialists had the opportunity to exchange opinions and experiences with foreign experts on methods of evaluating the environmental impact and treatment systems in different industries for minimizing the pollutants incorporated into the ecosystem of the capital's bay.

Presiding over the closing session was Mario Fernandez, director of science and technology of the Ministry of Transportation, who summed up the event, Dario Morcirax, UNESCO representative in Cuba, and other foreign guest officials and directors of Cuban institutions participating in the project.

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CSO: 5200/2104

CUBA NOTES CRITICISM OF U.S. FOR SHELVING SEA BORDER TREATY

PA161836 Havana PRELA in Spanish 1425 GMT 16 May 81

[Text] Mexico City, 16 May (PL)--The shelving by the United States of the ratification of the bilateral treaty on sea borders with Mexico, is an example of arrogance and contempt for bilateral and multilateral diplomacy, declared Alfonso Gomez Robledo, a Mexican specialist on international relations, who added that the U.S. attitude is unfriendly and uncalled for because it could lead to very serious international conflicts.

Gomez Robledo said that in this case the policy used to establish the borders was based on agreements reached at the Law of the Sea (LOS) meeting held in 1958 in Geneva and accepted by the International Court tribunals. Despite these agreements and the fact that the Group of 77 has said it is illegal, there is a U.S. law which allows the United States to unilaterally explore the sea bottoms outside its jurisdiction. This means that outside the arguments of international laws on the subject, all Mexico can do to get the U.S. Senate to approve the sea borders treaty between the two countries is to maintain its firm position.

The treaty was signed by the two countries' government commissions in 1978 and it immediately was considered acceptable by the U.S. Senate Foreign Relations Committee, which recommended its immediate approval. A few months after, the Mexican Senate approved the agreement, but the U.S. Senate still has not. Mexican Senator Alfonso Zapata recently made a survey of the reasons for the U.S. Senate delaying its ratification. Zapata found the main reasons are the big deposits of strategic minerals, among them oil, that U.S. private and state enterprises have discovered in 25,000 square miles of the Gulf of Mexico, which would become exclusively Mexican property under the new treaty. During the conversations held in 1978 to reach an agreement on the sea borders of the two countries, the U.S. delegation exerted pressure on the Mexican delegation to give up a rich fishing zone near California in exchange for a 25,000 square km [as received] strip in the Gulf of Mexico, which turned out to have the largest mineral resources including polymetallic modules of great strategic importance.

CSO: 5200/2088

USSR

CONVENTION ON ANTARCTIC MARINE LIVING RESOURCES EXPLAINED

Moscow SOVETSKOYE GOSUDARSTVO I PRAVO in Russian No 5, May 81 pp 98-103

[Article by V. N. Trofimov: "Convention on Conservation of Antarctic Marine Living Resources"]

[Text] The international-legal regime of the Antarctic is currently defined mainly by the 1959 Agreement on the Antarctic. Conclusion of this agreement permitted "freezing" of territorial claims , guaranteed use of the Antarctic only for peaceful purposes, and created a regime of freedom in scientific research in this region. It did not touch the question of using living and mineral resources of the indicated part of the globe [1,2], however, the rapid development of science and technology, universal expansion of the scales of production, exacerbation of the problem of supplying raw materials and food have now placed the examined question on the agenda.

Mineral resources are hidden under a layer of ice many meters thick in the depths of the continental section, Antarctica. Until now there have not been sufficiently complete and reliable data on the presence and dimensions of these resources although they apparently are no less rich than on other continents. Exploration, and more so, their extraction, are associated with a number of serious problems however. The first of them is ecological instability and vulnerability of this region. The features of the natural processes here are such that even pollution which is permissible in other regions of the earth, will be maintained for many years or even decades in the Antarctic. Correspondingly, the damage that this pollution can inflict rises many times. The extremely complicated conditions for the existence of living organisms on the continent predetermine the extreme fragility of the ecological equilibrium whose disruption may be irreparable.

It seems in addition, that exploration and extraction of mineral resources in the Antarctic will be accompanied by very high material outlays, since it is necessary to adapt the equipment not only to complex climate conditions, but also to high ecological requirements. Therefore, the states that judiciously assess this problem are supporting the conducting of a comprehensive evaluation of the possible consequences of industrial activity on the continent in the first place. This would permit an accurate calculation of the requirements for the extraction methods and based on the corresponding agreement, would prevent predatory use of the mineral resources.

A special situation developed in respect to the living resources of the Antarctic, i.e., fish, crustaceans, plankton, etc. that live in the cold seas adjoining the Antarctic continent. Of course, their use also creates certain difficulties of an

ecological nature, however they are comparable to similar problems in other marine regions whose resources have been used by mankind for a long time. The accumulated experience, sometimes sad, of regulating the reserves of living resources in other seas and coastal regions does create a certain foundation.

A number of states are already conducting industrial extracting of living resources of the Antarctic seas, but far from those major dimensions to significantly affect the ecological balance formed here.

The use of Antarctic marine living resources has already been exposed to international-legal regulation to a certain measure. This affects whales in the first place. Whaling has become traditional on the Antarctic coast. Currently whaling is regulated in the framework of the International Whaling Commission which was set up in accordance with the International Convention on Regulating the Whaling Industry in 1946, although a new convention draft has already been developed. There is also the 1972 Convention on Preservation of the Antarctic Seals [3] that was developed in the framework of consultative meetings held according to the 1959 Agreement on the Antarctic [4].

Questions of preserving marine living resources have been examined in a number of consultative meetings. They resulted in the adoption of "General Rules of Behavior for Protection and Conservation of Living Resources in the Antarctic" (Recommendations I-VIII) [5] and "Approved Measures for Protection of the Fauna and Flora of the Antarctic" (Recommendations III-VIII, adopted at the third consultative meeting in Brussels in 1964). However, the establishment of 200-mile economic and fishing zones placed on the agenda the question of the need to create a more flexible and effective mechanism for regulating marine living resources.

Under these conditions, the states which are undertaking considerable scientific and industrial activity in the Antarctic have a special responsibility for conservation of marine living resources of this region. They were participants in the consultative meetings on the Agreement on the Antarctic within whose framework work was done to formulate a convention draft. The Convention on Conservation of Antarctic Marine Living Resources was finally agreed upon at a diplomatic conference held in Canberra from 7 to 20 May 1980 [6]. A characteristic feature of the convention is that it contains statutes of a political nature. They confirm a number of the most important statutes of the Agreement on the Antarctic, and directly tie the convention to them. Article 3 of the convention states that the "Contracting Parties, regardless of whether they are participants of the Agreement on the Antarctic or not, agree that in the region of action of the Agreement on the Antarctic they will not perform any activity which contradicts the principles and purposes of this Agreement, and that in their relations with each other, they are bound by the commitments contained in articles 1 and 5 of the Agreement on the Antarctic." At the same time, approval was given to the agreement statutes that are interlinked and which state that the Antarctic is used only for peaceful purposes and that any nuclear explosions or disposal of radioactive materials in this region is forbidden.

The convention also touched upon the most complex political and juridical question regarding territorial claims in the Antarctic. Resolution of this question in the indicated agreement is the basis for the present international-legal situation of this region. The essence of the problem is that such states as England, France,

Australia, New Zealand, Norway, Chili and Argentina unilaterally declared the spread of their sovereignity to different regions of the Antarctic. The territories they claimed differed in area, but in their configuration represented sectors that converge towards the South Pole. This form of territorial division was justified supposedly by the possiblity of spreading to the Antarctic continent the practice of delimiting the rights of states in the Arctic.

The Soviet Union, being the legal successor of Russia who had historical credit in discovering the Antarctic, could make very significant territorial claims in the Antarctic on this basis. Nevertheless, it did not take this path, considering that the resolution of the Antarctic question by negotiations of the interested parties on an international basis would correspond to the interests of peace in this region [7]. Wanting to guarantee a peaceful solution to the problem and to create the possibility of fruitful international cooperation in the Antarctic, the Soviet Union consciously abstained from proclaiming its rights in this region. As a result of diplomatic negotiations, the appropriate compromise was finally found which corresponded to the real situation, namely, the insufficient legal grounds for the claims made. Earlier, in working out the Agreement on the Antarctic, five elements of this compromise were fixed: 1) conclusion of the agreement does not mean abandonment of the rights or claims of territorial sovereignity (subpoints "a" and "b" of point 1, article 4); 2) the agreement does not damage the position of any of the parties in relation to acknowledgment or disavowal by it of the right for claims of any other state (subpoint "c", point 1, article 4); 3) no actions or activity constitute the grounds for announcement, support or negation of any claim to territorial sovereignity (subpoint "c", point 1, article 4); 4) new claims are not made and the already existing claims are not expanded (point 2, article 4); 5) nothing in the agreement infringes upon or touches upon the rights of any state in relation to the open sea to the south of the 60th parallel southern latitude (article 6).

The convention develops the question of claims, including territorial.[1] Point 1 of article 4 in the convention states: "As for the region of action of the Agreement on the Antarctic, all the Contracting Parties, regardless of whether they are participants of the Agreement on the Antarctic or not, are bound in their relations with each other by the statutes of articles 4 and 6 of the Agreement on the Antarctic." Moreover, the convention is not limited to this reference to the agreement, but again repeats some of the statutes fixed in it: in subpoints "a" and "d" of point 2, the sense of point 2 of article 4 from the agreement is reproduced.

Subpoints "b" and "c" of point 2, section 4 of the convention cover new questions that are not treated in the Agreement on the Antarctic:

"2. Nothing contained in this Convention, and no actions or types of activity that occur while this Convention is in force:

...b. must be interpreted as the denial of any of the Contracting Parties of any right or claim, or grounds for claim, or as their curtailment or damage to them

[1] The question of territorial claims was covered to a certain measure in the 1972 Convention on Conservation of Antarctic Seals, where article 1 states: "The actions of this Convention cover the seas to the south of 60° southern latitude, in relation to which the Contracting Parties confirm the statutes of article 4 of the Agreement on the Antarctic."

in relation to the jurisdiction of the coastal state according to international law in the limits of the area of application of this Convention;

c. must not be interpreted as damaging the position of any of the Contracting Parties in relation to the acknowledgment or disavowal by it of this right, claim or grounds for the claim."

It should be noted that, first of all, the statutes of the presented subpoints concern the entire region of action of the convention, and not only that part of it which coincides with the region of action of the agreement. Secondly, they are no longer concerned with the claims for territorial sovereignity, but the claims for jurisdiction in the sea regions that adjoin the territory of the adjacent state.

The meaning of these two points should be understood as follows. The region of action of the convention covers both the sea regions adjoining the territories where claims of sovereignity are not acknowledged, and the territories where claims of sovereighnity are not disputed (for example, Kerguelen and Crozet Islands which belong to France). Essentially, the attempts to impose jurisdiction in the sea regions adjoining the territories where sovereignity claims are not acknowledged can only be interpreted as attempts to support or expand the existing claim to these territories, i.e., as violations of the Agreement on the Antarctic. The practice of regulating these questions is precisely this. However, one should note that the agreement does not directly regulate the question of jurisdiction in relation to the sea spaces adjoining the dry land. It only uses the term "territorial sovereignity" and "any actions" are viewed in the sense of supporting the claims to sovereignity or rejection of it. Moreover, article 6 on the question of rights in relation to the open sea suggests being guided by the rights acknowledged by international law.

Consequently, the convention confirms not only the statutes on "freezing" claims in relation to territories, but also in relation to their adjacent sea spaces. This is a further development of the corresponding statutes in the Agreement on the Antarctic.

As for the territories whose sovereignity is not disputed by anyone (in particular, Kerguelen and Crozet), certain aspects of the regime for the waters adjacent to them have become the subject of difficult discussions. It is evident that the sea spaces of these islands comprise an important element in the total ecological balance in the Antarctic region. To exclude them from the region of action of the convention would mean to ignore this element.

Understanding by the participants of the consultative meetings of the special responsibility in relation to protection and preservation of the Antarctic environment, as well as the need for the most rapid international regulation of preserving its marine living resources allowed a certain compromise to be worked out in the framework of the convention. Confirmation in subpoints "b" and "c" of point 2, article 4 of both the rights of the coastal state to the waters adjoining its territory, and the rights of the states disputing this eliminated certain obstacles to the creation of an effective mechanism for regulation in the framework of the convention. On the other hand, a statement of the chairman was included in the final act of the conference which was not objected to by any one of the parties. Its essence is that measures for conservation of marine living resources in waters adjacent to islands in the convention region where the existence of state sovereignity is acknowledged by all the contracting parties, are only used with the agreement of this state, and are not used in the case of clear disagreement.

Nevertheless, as follows from the convention text, these measures may be developed and recommended in any case. The fact that the convention in over 20 years again confirmed the statutes of the Agreement on the Antarctic regarding demilitarization and "freezing" of territorial claims has very great political importance. Its enforcement will strengthen the basic grounds of the international-legal regime of the Antarctic, and will tie them to new types of human activity in this region. It is also significant that the contracting parties directly acknowledge the special commitments and responsiblity of the states participating in the consultative meetings on the Agreement on the Antarctic concerning protection and conservation of the environment in the sphere of activity of this agreement (point 1, article 5). This statute strengthens the pratice that has already been formed for many years of solving the Antarctic problems in the framework of consultative meetings, and creates the basis for further development of a regime for other types of activity.

Representatives of Australia, England, Argentina, Belgium, the GDR, New Zealand, Norway, Poland, the USSR, the United States, the FRG, France, Chili, the UAR and Japan participated in the conference in Canberra. Representatives of the EEC, FAO, International Oceanographic Commission, International Union for Conservation of Nature and Natural Resources, the International Whaling Commission, Scientific Committee on Antarctic Research (SCAR) and the Scientific Committee on Ocean Research were invited as observers. The editorial committee of the conference, according to predeveloped procedural rules, only included representatives of Australia, England, Argentina, New Zealand, Norway, Poland, the USSR, the United States, France, Chili, the UAR and Japan.

The convention made a demarcation between its original participants and parties that could be added to it in the future. According to article 26, states can become original participants who have participated in the conference and who sign the convention before 31 December 1980. According to article 28, the convention goes into force on the 30th day after the 8th ratification instrument has been stored, a document on the adoption or approval by the states mentioned in point 1, article 26, i.e., those participating in the conference and who have expressed the desire to become its participants before 31 December 1980.

Any state or organization of regional economic integration set up by sovereign states can join the convention according to article 29. At least one of these states must be a member of the Commission on Conservation of Antarctic Marine Living Resources that was set up in the framework of the convention, and the member states of the organization must completely or partially transfer to it competence in relation to questions covered by this convention. Moreover, the joining of these regional economic organizations is the subject of consultation among the commission members.

In signing the final act of the conference, the USSR delegation announced that presentation to the organizations of regional economic integration of the possibility of becoming participants in the Convention on Conservation of Antarctic Marine Living Resources does not alter the Soviet Union's position in relation to various international organizations. The delegation from Poland and the GDR made similar announcements.

Examination of the goals, subject and region of action of the convention has definite importance in understanding its value. Article 2 defines the goal of the

convention as conservation of the Antarctic marine living resources. The same article, however, pinpoints that the term "conservation" includes efficient use. Thus, although the name of the convention does not contain the concept "use of resources," nevertheless, its statutes assume efficient use which guarantees conservation. Point 3, article 2 defines the principles according to which industry and any activity associated with it can be conducted. In particular, it indicates the need to prevent reduction in the numbers of any population caught to a level below that which guarantees its stable replenishment. For this purpose, it must not be allowed to drop below a level close to that which guarantees the greatest pure annual increase. In addition, it stipulates maintenance of interrelationships between the caught populations, those dependent on them and those linked to them, as well as restoration of depleted populations. It speaks of the need to prevent changes or to reduce to a minimum the danger of changes in the marine ecosystem that are potentially irreversible in the course of two or three decades.

Among the marine living resources, the convention includes the populations of finned fish, mollusks, crustaceans and all other types of living organisms, including birds living to the south of the Antarctic convergence.[1] Thus, the convention covers krill, whales and seals, although the latter two species with definite stipulations. In this respect it is indicated in article 6 that "nothing contained in this Convention infringes on the rights and commitments of the Contracting Parties according to the International Convention on Regulating the Whaling Industry and the Convention on Conservation of the Antarctic Seal."

Article 1 defines as follows the region of action of the convention: "This Convention applies to the Antarctic marine living resources of the region to the south of 60° southern latitude and to the Antarctic marine living resources of the region that is located between this latitude and the Antarctic convergence which are a part of the marine ecosystem of the Antarctic." This same article further gives the precise coordinates of the Antarctic convergence, defining it as a line lying between 45° and 60° southern latitude. The fact that the convention is not limited to indicating only the Antarctic convergence, but also presents the boundary passing through 60° southern latitude is explained by references of the convention, in particular, on questions of demilitarization and territorial claims, to the Agreement on the Antarctic whose action is limited to 60° southern latitude. Thus, on questions of conservation of marine living resources, the region of action of the convention exceeds the region of action of the Agreement on the Antarctic, while on questions of the use of the Antarctic only for peaceful purposes, banning nuclear explosions, "freezing" claims to territorial sovereignity, as well as other principles and goals of the agreement, it coincides with it.

It is proposed in the framework of the convention that a commission be set up for conservation of Antarctic marine living resources whose function will be the implementation of goals and principles of the convention. "Each Contracting Party that participated in the meeting at which this Convention was adopted..." is a member of the commission. Thus, the original participants in the convention are placed in a somewhat primary position. Article 7 stipulates membership in the commission for the parties that join the convention in the future. However, the joining state has the right to be a member of the commission during the time that it is conducting research or trade of marine living resources that the convention applies to. An organization of regional economic integration can be a member of the commission,

[1] The Antarctic convergence is considered the boundary between the cold Antarctic waters and the warm waters of the Pacific, Atlantic and Indian Oceans.

however, only during that time when the memeber states of this organization have the right to this. Moreover, the parties joining the convention can become members of the commission only in that case where during the 2 months after the appropriate notification is received, none of its members announces the need for a special session of the commission to examine this question. If there is no request for such a session, the party which expressed the desire to become a member of the commission is considered to have met the requirements of membership.

Article 12 also covers questions of participation by organizations of regional economic integration in the commission's work. This organization will only have one vote in decision making, and when the commission examines any question which requires decision making, it must be clearly indicated whether it will participate in the making of this decision, and if it will, then whether any of its member states will also participate in its making. The number of parties that thus participate must not exceed the number of member states in the organization which are members of the commission.

The commission has fairly vast functions. It collects and generalizes information which characterizes the condition of the populations of marine living resources of the Antarctic, collects statistical data on catches and the fishing conditions, analyzes, disseminates and publishes the obtained information. In accordance with this information, the commission takes measures to conserve marine living resources. It thus determines: the number of any species that can be caught in the region of application of the convention; the regions based on distribution of populations; the number which can be caught from the populations of the regions; the protected species; the size, age and sex of the species that can be caught; the seasons which are open and closed for fishing; the open and closed zones, region or subregion for purposes of scientific study or conservation, including special zones of protection and scientific study; regulation of fishing efforts and methods of catching; adoption of other measures for conservation which the commission considers necessary for implementation of the convention goal. That is, the commission actually can establish any types of limitations on the catches, the quantity, regions, seasons, catching equipment, etc., and also implement a system of observation and inspection stipulated by the convention.

In this respect, the procedure of decision making by the commission has great importance. Article 12 determines that the decisions on questions on the point are made based on consensus and "the question of whether this question is a question on the point is viewed as a question on the point." On other questions, decisions are made by a simple majority vote of the commission members who are present and participate in the voting.

Measures for conservation that are adopted by the commission thus become mandatory for all of its members at the end of 180 days following the obtaining of the appropriate information. However, "if on the 90th day after the information...a member of the commission informs the commission that he cannot accept, completely or partially, this measure for conservation, this measure does not become mandatory in the indicated degree for this commission member." In this case, a procedure is provided to convene a session of the commission in order to examine this measure on conservation, and if in the course of 30 days after the session, any of its members announces that this measure is unacceptable for it, then it will not be mandatory for it.

The procedure for decision making in the commission is based a lot on the general agreement of its members. The commission can discuss any measure in relation to any region, however, it is enough for one of its members to announce that a question on the point is being discussed. and the agreement of all parties is required for a decision to be made. If the discussed measure is not acknowledged to be a question on the point and is adopted by a simple majority, then in this case, the party that does not agree with it is not obliged to observe it if it has given the appropriate information to the commission. Probably, the effectiveness of functioning of this mechanism will depend a lot on the striving of the parties for establishment of cooperation and on the importance of certain examined questions for the national interests.

The convention does not provide directly for the case where a participant who is not subject to or does not have the right to be a member of the commission performs activity contradictory to its goals. The decisions of the commission are mandatory only for its members (point 6, article 9). To a certain measure, this question is regulated by point 2, article 10 which states that the commission focuses attention of all the contracting parties on any activity, which, in its opinion, influences the attainment by any contracting party of the convention's goal. At the same time, the commission in the fulfillment of its functions "completely takes into consideration any appropriate measures or regulations adopted or recommended by the consulatative meetings according to article 9 of the Agreement on the Antarctic, or adopted or recommended by the existing commissions on fishing who are responsible for the species that could be in the region of application of this Convention, to avoid disagreement between the rules and commitments of the Contracting Party that follow from these rules or measures, and measures on conservation which may be adopted by the Commission" (point 5, article 9). In addition, it takes into consideration completely the recommendations and the opinion of the scientific committee.

The scientific committee for conservation of Antarctic marine living resources is instituted according to article 14 of the convention as a consultative agency of the commission. It includes all members of the commission. The procedural rules are adopted by the scientific committee, however, they, as well as any corrections of them are approved by the commission. The text of the convention nevertheless directly stipulates that these procedural rules include the procedure of presenting reports of the minority. The convention also provides for creation of a secretariat whose function is defined by the commission.

To promote achievement of the goal and guarantee observance of the convention statutes, the contracting parties agreed to set up a system of observation and inspection (article 24). This system is developed by the commission, however, it includes in any case: procedure for observers and inspectors visiting the ship; procedure for prosecution by the state of the flag and the use of sanctions based on proof obtained as a result of this ship visit and inspection; report by the contracting party regarding these measures of prosecution and the sanctions used. The convention is permanent, however, any contracting party may resign as a participant after sending the appropriate information.

Working out of the Convention on Conservation of Antarctic Marine Living Resources is an important step in the strengthening and further formation of the political and international-legal situation in the Antarctic, and in the development of general norms of international law. Its close link with the Agreement on the

Antarctic concluded over 20 years ago shows the correctness of the balance of positions of different interested parties that is recorded in it, guarantees stabilization of the formed situation and creates prerequisites for solving other, new problems of this region on the same basis. There is no doubt that the convention will become a reliable means of guaranteeing the conservation of marine ecosystems of this region, as well as an important element of supporting the general ecological balance on our planet.

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